the diagnostic category was inaccurately assigned, the department shall adjust the reimbursement as applicable to the diagnostic category that is accurate for the recipient's condition.

F. If the medical review agent conducting a retrospective review finds the recipient's medical record is inadequate to justify that a surgical procedure requiring a second opinion is medically appropriate, or that an exemption under part 9505.5040 was appropriate, the medical review agent may request a hospital to submit, at the hospital's expense, documentation substantiating the opinion of the third physician that the surgical procedure was medically appropriate, or that the exemption under part 9505.5040 was appropriate. The hospital shall submit the documentation within 20 days, exclusive of weekends and holidays, of the date of the notice requesting the documentation.

G. If the clinical evaluator is unable to determine from the documentation in the recipient's medical records the reasons for the recipient's discharge and readmission, the clinical evaluator shall submit the medical records of the recipient's discharge and readmission to a physician adviser. The physician adviser shall review the records and determine the nature of the discharge and readmission according to the criteria in part 9505.0540, subparts 3 to 5, and if the determination of the medical review agent is different from that of the admitting physician or hospital, then the medical review agent shall notify the admitting physician or hospital by certified letter mailed within five days, exclusive of weekends and holidays, of the determination. The notice shall state the right of the admitting physician and hospital to request a reconsideration under subpart 9.

Subp. 11. **Consequences of withdrawal of admission certification or authorization number; general.** The department or the medical review agent shall withdraw the certification number or authorization number and may take action as specified in items A to F if the medical review agent determines any of the following: (1) that the admission was not medically necessary; (2) that all medically necessary inpatient hospital services were not provided; (3) that some or all of the inpatient hospital services were not medically necessary; (4) that within 20 days, exclusive of weekends and holidays, the hospital has failed to comply with the department's or the medical review agent's request to submit the medical record or other required information to support that the admission was medically necessary, that all medically necessary inpatient hospital services were provided, or that some or all of the inpatient hospital services provided were medically necessary; or, that the information submitted by the hospital was inadequate to support that the admission was medically necessary, that all medically necessary inpatient hospital services were provided, or that some or all of the inpatient hospital services provided were medically necessary; (5) that documentation submitted by the hospital at the request of the department or the medical review agent does not support that the surgical procedure was medically appropriate, or that the exemption under part 9505.5040 was appropriate; or (6) that within 20 days, exclusive of weekends and holidays, the hospital has failed to comply with the medical review agent's request to submit documentation to substantiate the opinion of a third physician that the surgical procedure was medically appropriate, or that the exemption under part 9505.5040 was appropriate.

A. For hospitals receiving payments under parts 9500.1090 to 9500.1155, if the admission was not medically necessary or the medical record does not adequately document that the admission was medically necessary, the entire payment shall be denied or recovered as provided in subpart 15. If the hospital failed to provide services that were medically

necessary, the matter shall be referred to the department which may take action under parts 9505.1750 to 9505.2150.

B. For hospitals receiving payments under parts 9500.1090 to 9500.1155, if the admission was medically necessary but some or all of the additional inpatient hospital services were not or will not be medically necessary, or the medical record does not adequately document that the additional inpatient hospital services were necessary, payment for the additional services shall be denied or recovered as provided in subpart 15. If the hospital failed to provide services that were medically necessary, the matter shall be referred to the department which may take action under parts 9505.1750 to 9505.2150.

C. If the admission was not medically necessary or the medical record does not adequately document that the admission was medically necessary, payment shall be denied or recovered from the admitting physician and other vendors of inpatient hospital services as provided in subpart 15. If the admitting physician and other vendors failed to provide services that were medically necessary, the matter shall be referred to the department which may take action under parts 9505.1750 to 9505.2150.

D. If additional inpatient hospital services were not or will not be medically necessary, or the medical record did not adequately document that the additional inpatient hospital services were medically necessary, payment for the additional services shall be denied or recovered from the admitting physician and other vendors of inpatient hospital services as provided in subpart 15. If the admission was medically necessary but some or all of the inpatient hospital services were not medically necessary, the matter shall be referred to the department which may take action under parts 9505.1750 to 9505.2150. If the admitting physician and vendors failed to provide services that were medically necessary, the matter shall be referred to the department which may take action under parts 9505.1750 to 9505.2150.

E. If within 20 days, exclusive of weekends and holidays, the hospital failed to comply with the department's or the medical review agent's request to submit the medical record or other required information to support (1) that the admission was medically necessary; (2) that all medically necessary inpatient hospital services were provided; or (3) that some or all of the inpatient hospital services provided were medically necessary; or, if the information submitted by the hospital was inadequate to support clauses (1) to (3) of this item, all or part of the payment shall be denied or recovered as provided in items A to D.

F. If the documentation does not support that the surgical procedure was medically appropriate or that the exemption under part 9505.5040 was appropriate, or if the hospital failed to comply with the medical review agent's request to submit documentation to substantiate the opinion of the third physician that the surgical procedure was medically appropriate or that the exemption under part 9505.5040 was appropriate, payment for the surgical procedure shall be denied or recovered from the hospital, admitting physician, or other vendors as provided in subpart 15.

Subp. 12. Reconsideration of denial or withdrawal of admission certification or authorization number. The denial or withdrawal of admission certification or authorization number may be reconsidered under subpart 9.

Subp. 13. Information used for determination. At any stage of the admission certification process, including reconsideration, the person or persons making the determination

may do so on the information provided by the admitting physician, or in their sole discretion may refer to additional facts submitted by the admitting physician.

Subp. 14. **Retroactive admission certification.** If the admitting physician fails to request admission certification by contacting the medical review agent prior to an admission for an inpatient hospital service other than a service under subpart 2, the admitting physician may retroactively request admission certification. The admitting physician shall submit at his or her own expense the recipient's complete medical record to the medical review agent within 30 days of the recipient's discharge. The medical record must contain the information required in subpart 3, items B and C, and any other facts necessary to establish that the recipient's admission was medically necessary. The procedure outlined in subpart 8 shall also be followed in the case of retroactive admission certification. The denial of retroactive admission certification and the withdrawal of retroactive admission certification may be appealed to the medical review agent through the reconsideration process in subpart 9.

Subp. 15. **Recovery of payment after withdrawal of admission certification or denial of authorization of second surgical procedure.** An admitting physician or hospital that receives a notice of withdrawal of a certification number or authorization number and that does not request reconsideration under subpart 9 or appeal under Minnesota Statutes, chapter 14, shall be subject to recovery of payment without further notice or right to appeal. If a reconsideration results in the denial or withdrawal of a certification number or authorization number, and the admitting physician or hospital does not appeal within the time permitted pursuant to other remedies, the department shall recover payment without further notice to the admitting physician and hospital. If an appeal results in the denial or withdrawal of a certification number or authorization number, the department shall recover the payment without further notice to the admitting physician and the hospital.

Recovery of overpayments may be made by:

A. adjusting the provider's invoice to the difference between the billed amount and the correct amount;

B. canceling the incorrect invoice and directing the provider to submit a correct invoice;

C. withholding or offsetting the payment due the provider for other medical assistance or general assistance medical care services; or

D. using any other remedy available under state or federal law or rules.

MS s 256B.04 subds 2,15; 256B.503; 256D.03 subd 7 para (b)

9 SR 2296; 11 SR 1687; 13 SR 1688

9505.0521 PROHIBITION OF RECOVERY FROM RECIPIENT.

The provider may not seek payment from the recipient for inpatient hospital services provided under parts 9505.0500 to 9505.0540 if the certification or authorization number is not issued or is withdrawn.

MS s 256B.04 subds 2,15; 256B.503; 256D.03 subd 7 para (b)

13 SR 1688

9505.0522 RECIPIENT'S RIGHT TO APPEAL.

A recipient who is denied inpatient hospital services because of the medical review agent's determination that the services are not medically necessary or who is denied a surgical procedure requiring a second surgical opinion because of the medical review agent's determination that the surgical procedure is not appropriate, may appeal the medical review agent's determination under Minnesota Statutes, section 256.045.

MS s 256B.04 subds 2,15; 256B.503; 256D.03 subd 7 para (b)

13 SR 1688

9505.0530 INCORPORATION BY REFERENCE OF CRITERIA TO DETERMINE MEDICAL NECESSITY.

The most recent edition of the Appropriateness Evaluation Protocol of the National Institutes of Health is incorporated by reference. The book is available at the Health Data Institute, 20 Maguire Road, Lexington, Massachusetts, 02173, and it is also available through the Minitex interlibrary loan system. The book is subject to change.

The Criteria for Inpatient Psychiatric Treatment, 1981 edition, published by Blue Cross and Blue Shield of Minnesota are incorporated by reference. The criteria are available at Blue Cross and Blue Shield of Minnesota, P.O. Box 64560, Saint Paul, Minnesota 55164, and at the state law library, Ford Building, Saint Paul, Minnesota 55155. The criteria are not subject to frequent change.

MS s 256B.04 subds 2,15; 256B.503; 256D.03 subd 7 para (b)

9 SR 2296; 11 SR 1687; 13 SR 1688

9505.0540 CRITERIA TO DETERMINE MEDICAL NECESSITY OR APPROPRIATENESS.

Subpart 1. **Determination for admission for purpose other than chemical dependency treatment.** The medical review agent shall follow the Appropriateness Evaluation Protocol and Criteria for Inpatient Psychiatric Treatment of Blue Cross and Blue Shield of Minnesota in determining whether a recipient's admission is medically necessary, whether the inpatient hospital services provided to the recipient were medically necessary, whether the recipient's continued stay will be medically necessary, and whether all medically necessary inpatient hospital services were provided to the recipient.

In determining whether a surgical procedure requiring a second surgical opinion is medically appropriate, the medical review agent shall follow the criteria published in the State Register pursuant to Minnesota Statutes, section 256B.0625, subdivision 24.

Subp. 2. **Determination for admission for chemical dependency treatment.** The assessment of a recipient's need for chemical dependency treatment in a hospital shall be made according to parts 9530.6600 to 9530.6655.

Subp. 3. **Readmission considered as a second admission.** The medical review agent shall issue a certification number for a readmission that meets the criteria for medical necessity specified in subpart 1 whether the admitting and readmitting hospitals are the same or different. The medical record of the admission must state why the recipient was discharged from the hospital and what the recipient's medical status was upon discharge, and the medical record of the readmission must state

why the recipient is being readmitted and what the recipient's medical status is at readmission. Both the admission and the readmission shall be subject to a retrospective review as provided in part 9505.0520, subpart 10. If the reason for the discharge and the reason for the readmission meet one set of circumstances specified in items A to D, the medical review agent shall determine that both the admission and the readmission shall retain the certification number subject to the hospitals' and admitting physicians' compliance with all requirements of parts 9505.0500 to 9505.0540.

A. The readmission results from the recipient leaving the hospital against medical advice.

B. The readmission results from the recipient being noncompliant with medical advice that is recorded on the recipient's medical record as being given to the recipient at the admitting hospital. For purposes of this part, "recipient being noncompliant with medical advice" means that the recipient, fully informed of his or her medical condition, and fully understanding the need for the treatment and the follow-up discharge instructions, if any, refuses to adhere to the treatment or to follow the discharge instructions.

C. The readmission results from a new episode of the same diagnosis of an episodic illness or condition.

D. The readmission results from the fact that the recipient's discharge from the admitting hospital and readmission are medically necessary according to prevailing medical standards, practice, and usage.

Subp. 4. **Readmission considered as continuous with admission.** The medical review agent shall determine that a readmission of a recipient is continuous with the recipient's admission whether the admitting and readmitting hospitals are the same or different if the circumstances requiring the recipient's readmission meet one set of the circumstances specified in items A to C. The medical review agent shall issue a certification number if the readmission meets the criteria for medical necessity specified in subpart 1. The medical record of the admission must state why the recipient was discharged from the hospital and what the recipient's medical status was upon discharge, and the medical record of the readmission must state why the recipient is being readmitted and what the recipient's medical status is at readmission. Both the admission and the readmission shall be subject to a retrospective review as provided in part 9505.0520, subpart 10. Upon completing the retrospective review and determining whether the readmission and admission are consistent with item A, B, or C, the medical review agent shall take the action specified in the item that applies. Medical assistance payment for the inpatient hospital services retaining the certification number after the determination resulting from the retrospective review shall be paid according to parts 9500.1090 to 9500.1155 for the diagnostic category assigned to the recipient's principal diagnosis of the admission and readmission. In each circumstance, retention of the certification number shall be subject to the hospital's and admitting physician's compliance with all requirements of parts 9505.0500 to 9505.0540.

A. The recipient was discharged from the admitting hospital without receiving the procedure or treatment of the condition diagnosed during the admission because of the hospital's or physician's preference or because of a scheduling conflict. If the admitting and readmitting hospitals are the same, the medical review agent shall withdraw the certification number of the readmission and determine the admission eligible to retain the certification number. If the admitting and readmitting hospitals are not the same, the medical review agent shall apply the requirements under subpart 5, item C, regarding

readmission eligible for a transfer payment.

B. The recipient's discharge was not appropriate according to prevailing medical standards, practice, and usage. If the admitting and readmitting hospitals are the same, the medical review agent shall determine the admission eligible to retain the certification number and withdraw the certification number of the readmission. If the admitting and readmitting hospitals are different, the medical review agent shall withdraw the certification number of the admission and shall determine the readmission eligible to retain a certification number.

C. The recipient's discharge and readmission to the same hospital results from the preference of the recipient or the recipient's family that the recipient's treatment be delayed, that the recipient be discharged without receiving the necessary procedure or treatment, and that the recipient be readmitted for the necessary procedure or treatment. If the admitting and readmitting hospitals are the same, the medical review agent shall determine the admission eligible to retain the certification number and withdraw the certification number of the readmission. If the admitting and readmitting hospitals are not the same, the medical review agent shall apply the requirements under subpart 5, item A, regarding readmission eligible for a transfer payment. For purposes of this part, "preference of the recipient or the recipient's family" means that the recipient or the recipient's family makes a choice to delay or change the location of inpatient hospital services, and the choice is compatible with prevailing medical standards, practices, and usage.

Subp. 5. **Readmission eligible for transfer payment.** The medical review agent shall issue a certification number for a readmission that is eligible for a transfer payment if the readmission meets the criteria for medical necessity specified in subpart 1 and a set of circumstances in item A, B, or C. The medical record of the admission must state why the recipient was discharged from the hospital and what the recipient's medical status was upon discharge, and the medical record of the readmission must state why the recipient is being readmitted and what the recipient's medical status is at readmission. The medical review agent shall conduct a retrospective review of the medical records, determine whether the readmission is consistent with the circumstances in item A, B, or C, and take the action specified in the item. Retention of the certification number by the hospital shall also be subject to the admitting physician's and hospital's compliance with all requirements of parts 9505.0500 to 9505.0540.

A. The readmission results from the preference of the recipient or the recipient's family that the recipient be discharged from the admitting hospital without receiving the necessary procedure or treatment and that the recipient be readmitted to a different hospital to obtain the necessary procedure or treatment. In this case, both hospitals shall retain their certification numbers subject to the hospitals' and admitting physicians' compliance with all requirements of parts 9505.0500 to 9505.0540, and medical assistance payment to each hospital shall be made according to the transfer payment established under part 9500.1130, subpart 7, item A, for the inpatient hospital services necessary for the recipient's diagnosis and treatment.

B. The readmission results from a referral from one hospital to a different hospital because the recipient's medically necessary treatment was outside the scope of the first hospital's available services. In this case, both hospitals shall retain their certification numbers, and medical assistance payment to each hospital shall be made according to the transfer payment established under part 9500.1130, subpart 7, item A, for the inpatient hospital services necessary for the recipient's

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diagnosis and treatment. If, however, the admission to the first hospital is not due to an emergency and the first hospital knew or had reason to know at the time of admission that the inpatient hospital services that were medically necessary for the recipient's treatment or condition were outside the scope of the hospital's available services and the readmission to another hospital resulted because of the recipient's need for those services, the first hospital's certification number will be withdrawn.

C. The readmission results from a physician's or hospital's scheduling conflict at the admitting hospital. The medical review agent shall determine both hospitals eligible to retain their certification numbers. In this case, medical assistance payment to each hospital shall be made according to the transfer payment established under part 9500.1130, subpart 7, item A, for the inpatient hospital services necessary for the recipient's diagnosis and treatment.

Subp. 6. **Physician adviser's review of readmission.** If the clinical evaluator is unable to determine from the documentation in the recipient's medical records the reasons for the recipient's discharge and readmission, the records shall be reviewed by the physician adviser, according to the procedure in part 9505.0520, subpart 10, item G.

MS s 256B.04 subds 2,15; 256B.503; 256D.03 subd 7 para (b)

9 SR 2296; 11 SR 1687; 13 SR 1688